IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10440 of 1999

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DIVISIONAL CONTROLLER

Versus

UMMARBHAI HASAMBHAI KHOKHAR

Appearance:

MR KM PARIKH for Petitioner

MR JS BRAHMBHATT for Respondent

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 01/03/2000

ORAL JUDGEMENT

1. Rule. Mr. J.S. Brahmbhatt waives service of rule on behalf of the respondent. On a joint request of learned counsel for the respective parties this matter is taken up for final hearing today.

2. This is a petition under Article 227 of the Constitution of India though styled as one under Articles

14 and 226 of the Constitution, at the instance of the Gujarat State Road Corporation, challenging the judgement and award of the Labour Court, Vadodara, in Reference (LCV) No.10/95.

3. The respondent workman was employed by the petitioner Corporation as driver, who was charged and found guilty in a domestic inquiry for remaining absent without authorised leave from 6th May 1994 to 24th May 1994. He was found guilty in the said inquiry and a punishment of dismissal was imposed upon him, which led to the filing of the reference. In the said reference the Labour Court, after going through the evidentiary material on record, found that the punishment of dismissal is excessive and too harsh and not justified on the facts of the case and directed reinstatement with continuity of service, but with only 50% backwages. It is this judgement and order which is the subject matter of the present petition.

4. As a result of the hearing and discussion, and after referring to such evidentiary material on record to which my attention has been drawn, learned counsel for the respective parties have arrived at a consensus on the basis of which they stated that the question of appropriate punishment is entirely left to the discretion of this court.

5. On the facts and circumstances of the case I am satisfied that the interests of justice will be served by confirming the punishment as awarded by the impugned judgement and award, and by imposing a further punishment of stoppage of two increments with future effect. The impugned judgement and award stands modified accordingly.

6. This petition is, therefore, allowed to the aforesaid extent. Rule is made absolute accordingly with no order as to costs.

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